

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN
MEINERS, and DANIEL UMPA, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

NATIONAL ASSOCIATION OF REALTORS,
et al.,

Defendants.

Civil Action No. 4:23-cv-00788-SRB

[Consolidated with 4:23-cv-00945-SRB]

**PLAINTIFFS' UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF SETTLEMENTS**

On April 30, 2024, the Court granted preliminary approval of Settlements in this case with five Defendants—Compass, Real Brokerage, RealtyOne, @properties, and Douglas Elliman. Doc. 163. On July 15, 2024, the Court granted (a) preliminary approval of Settlements with Redfin and Engel & Volkers (Doc. 297), and (b) approval of form of class notice for the first five *Gibson* Settlements, as well as for later settlements in this action. Doc. 296. Plaintiffs intend to commence Notice of these seven Settlements on July 23, 2024. *See* Docs. 292, 294, 296, and 297.

After months of negotiations, Plaintiffs have now reached Settlements with two additional *Gibson* Defendant families: (1) Five D I, LLC (d/b/a United Real Estate) (“Five D”), Premiere Plus Realty, Co. (“Premiere”), Charles Rutenberg Realty - Orlando, LLC (“CRR-Orlando”) (collectively “**United Real Estate**”); and (2) HomeSmart Holdings, Inc. (“**HomeSmart**”).¹ The

¹ The Settlement Agreements are attached as Exhibits A and B to the Declaration of Steve Berman, Ex. 1 (“Berman Decl.”).

parties wish to include these two Settlements in the upcoming round of settlement approval and class notice, for a total of nine *Gibson* Defendants.

The Settlements with United Real Estate and HomeSmart are substantially similar to those reached with all the previous *Gibson* Settling Defendants, as well as those reached with *Burnett* settling Defendants Anywhere, RE/MAX, and Keller Williams. The United Real Estate and HomeSmart Settlements were the result of lengthy arms-length negotiations and consideration of the risk and cost of litigation. *See* Berman Decl. ¶¶ 7, 10-11. While the settlement amounts vary, with United Real Estate paying \$3.75 million and HomeSmart paying \$4.7 million (United Real Estate Agreement ¶ 18; HomeSmart Agreement ¶ 18), the non-monetary terms of the Settlements are the same in all material respects as the terms of the previous *Gibson* Settlements. As with the previous *Gibson* Settlements, these Settlements were reached after a detailed investigation relating to each Defendant's financial condition and ability to pay a judgment or settlement. *See* Berman Decl. ¶ 12. The Settlements are fair, reasonable, and adequate, and beneficial to the Settlement Classes. *See id.* ¶ 10. Class counsel have discussed the Settlements with the Class Representatives, and they have approved them. *See id.* ¶ 13.

The Settlements with United Real Estate and HomeSmart provide for the same injunctive relief provided under the previous settlements, *i.e.*: to make it clear to agents that offers of compensation are not required; increased transparency to consumers including recommending that franchisees inform consumers that commissions are negotiable; to advise franchisees that agents must show properties regardless of the existence or amount of offered cooperative compensation; to not express or imply that there is a minimum commission requirement; to develop training materials consistent with these terms; and to not require NAR membership of agents. United Real Estate Agreement ¶ 49; HomeSmart Agreement ¶49.

Because the Settlements constitute substantially similar relief as the Settlements the Court has already approved in *Burnett* (*Burnett* Doc. 1487), as well as the Settlements that the Court has preliminarily approved in this action (*Gibson* Docs. 163 and 297), the Court should grant preliminary approval of the United Real Estate and HomeSmart Settlements. In support, Plaintiffs incorporate herein their previous motions for preliminary approval (Docs. 161 and 294) and their motion to approve the form of the notice (Doc. 292), with accompanying exhibits.

The Court-approved form of notices will not change other than to: (1) include United Real Estate and HomeSmart as additional settling parties; (2) add the United Real Estate and HomeSmart Settlement Agreements to the settlement website; and (3) inform class members to visit the settlement website to learn about any additional settling parties.

United Real Estate and HomeSmart do not oppose this motion.

Wherefore, Plaintiffs respectfully request that the Court enter an order: (1) preliminarily approving the Settlements with United Real Estate and HomeSmart; (2) certifying the Settlement Classes for settlement purposes only; (3) appointing *Gibson* Plaintiffs as Settlement Class Representatives; (4) appointing Settlement Class Counsel; and (5) appointing JND as the notice administrator and ordering that notice be directed to the Settlement Classes in a form substantially similar to that issued in conjunction with the Anywhere, RE/MAX, and Keller Williams Settlements in the *Burnett* action.

Plaintiffs respectfully request the Court grant this motion without delay so that Notice of the Settlements with United Real Estate and HomeSmart can be combined with Notice of the previous *Gibson* Settlements.

DATED: July 15, 2024

Respectfully submitted by:

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